

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6530

BILL NUMBER: SB 307

NOTE PREPARED: Jan 3, 2010

BILL AMENDED:

SUBJECT: Public safety funding.

FIRST AUTHOR: Sen. Buck

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Public Safety User Fee:* This bill allows a county, municipality, township, or fire protection district to impose a public safety user fee to replace property taxes imposed by the entity. It specifies the purposes for which the public safety user fee may be used. It provides that a public safety user fee may be imposed on the owner of each lot, parcel of property, or building or other real property improvement, regardless of whether the property is exempt from ad valorem property taxes. It specifies that the public safety user fees imposed for a calendar year by an entity are considered property taxes for purposes of calculating the entity's maximum permissible property tax levy for that calendar year and for ensuing calendar years. It provides that such a public safety user fee is in addition to any other fee, rate, or charge imposed under any other statute or under home rule powers.

Capital Improvement Impact Fee: The bill allows the imposition of an impact fee for capital improvements for public safety purposes. It provides that for purposes of the impact fee statutes, impact costs do not include the costs of infrastructure necessitated by annexation.

Fire Department Reimbursement: The bill requires a property insurer to pay a fire department reimbursement provided in a policy in response to the property owner's claim against the insurer. It allows a fire department to charge the property owner if the reimbursement is not paid.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Public Safety User Fee:* Each year beginning in 2012, the Department of Local Government Finance (DLGF) would have to reduce the property tax levy of a taxing unit or fire protection district by an amount equal to the rates and charges imposed for public safety services. The rates and charges imposed in a particular year would also be treated as property taxes for the purpose of computing

the maximum permissible levy for that calendar year, and also for computing distributions of local option income taxes, financial institutions taxes, and excise taxes. The DLGF shall provide information for the Department of State Revenue (DOR) and county auditors to make these distributions.

The bill's requirements are within the agencies' routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues:

Explanation of Local Expenditures: *Public Safety User Fee:* The fiscal impact of implementing this provision would depend on local action. Taxing units that choose to adopt user fees would probably have to design a new rate structure and develop a set of procedures for managing its implementation. This may involve employing additional staff especially in the early stages of the transition to the new system. The additional funds and resources required could be supplied through reassigning existing staff and resources or with new appropriations.

Capital Improvement Impact Fee: Fire protection districts would incur the cost of processing and mailing fee statements to constituents.

Explanation of Local Revenues: Summary:

(1) *Public Safety User Fee:* Since the property tax levy would be reduced by the amount of user fees collected, total local revenues would not change under this bill. However, there would be a shift in who pays the fee from personal property owners to real property owners. The amount of the shift is indeterminable at this time. The shift might be reduced as previously exempt property would be subject to the user fee under this bill. Since the taxing unit could implement differential user rates rather than the uniform property tax rate the individual taxpayer could end up paying an amount different than the individual's property tax levy.

Circuit Breaker Impact: The reduction in the property tax levy implies that the tax rate would also decrease. As result, more taxpayers would probably be below the applicable tax cap. This could potentially decrease the amount of circuit breaker credits and revenue loss for taxing units. The revenue for cumulative funds would not be impacted.

(2) *Fire Department Reimbursement:* The amount of revenue that would be generated by this provision is unknown; it would depend on the number and nature of fires that occur.

Public Safety User Fee - Establishing Rates. For taxes payable in 2012 and after, this bill gives a local taxing unit or fire protection district (eligible entity) the option of eliminating the property tax levy for public safety services and replacing it with a fee. The fee would be in addition to all rates or charges that the eligible entity is authorized to levy. Fees would be payable by the owners of real property located in or served by the taxing unit/fire protection district. Fees would be set at a rate sufficient to provide revenue needed to:

1. Pay all expenses incidental to the delivery of public safety services (police, fire, emergency ambulance services, emergency medical services, and emergency action).
2. Provide a sinking fund for the liquidation of bonds.
3. Provide sufficient funds to meet interest payments on bonds and other expenses incurred during the construction of capital improvement projects which, when finished, would provide public safety services to users.

The fees can be based on:

1. A flat charge for each lot, parcel of property, or building.
2. The amount of police and fire services used.
3. The relative police and fire risk.
4. Whether the political subdivision is required to purchase or lease special equipment to deliver services to the property.
5. Other factors determined by the political subdivision to establish a just and equitable rate.

Initial rates or charges may be established only after a public hearing. A copy of rates and charges established must be kept on file in the principal office of the eligible entity and open to public inspection. Rates do not have to be uniform for all users; users may be classified according to cost of providing services and the amount of expenditures needed for capital improvement in a particular location. The eligible entity may, at its discretion, exempt or partially exempt individuals who provide their own public safety services from paying the fee.

The fee would apply to all property that is subject to assessment regardless of whether the property is exempt from property taxes. However, personal property would not be included.

Although the property taxes would be reduced by the amount of fees collected, the bill provides that local units consider the fees imposed under this bill as property taxes for the purpose of computing the unit's maximum permissible levy, and also for computing distributions of local option income taxes, financial institutions taxes, and excise taxes.

Due to lack of current data for some administrative offices that provide public safety services, the property tax levy for some public safety functions had to be computed from previous years' data. Estimates indicate that the property tax levy in 2010 for public safety would be approximately \$678 M.

Public Safety User Fee - Liens Against the Property. If the user fee is not paid within the time fixed by the eligible entity the rates or charges become delinquent and a penalty of 10% of the amount of the fees would be added to the bill. The eligible entity may recover the amount due, the penalty, and reasonable attorney's fees in a civil action in the name of the eligible entity. If the title to the property has been transferred to another person before a lien can be filed, the eligible entity must notify the person who owned the property at the time the fee became payable. A lien does not attach against property occupied by someone other than the owner unless the officer of the eligible entity notifies the owner of the property after the fees have become 60 days delinquent.

Public Safety User Fee - Enforcement of Delinquencies. If fees or penalties have been unpaid for at least 90 days, the collection officer shall enforce payment. Once or twice a year a year, the officer would prepare a list of the delinquent rates or charges and record a copy of the list in the office of the county recorder. In counties other than Marion county, the taxpayer would have up to 19 months to pay the unpaid bill and all service charges. In Marion County, the taxpayer would have up to nine months to pay the bill.

At the time of semi-annual tax settlement, the county treasurer must certify to the county auditor all rates or charges, fees, and penalties that have been collected. The county auditor must deduct the service charges and certification fees collected by the county treasurer and pay to the eligible entity the remaining fees and penalties due the eligible entity. The county treasurer must deposit the service charges and certification fees in the county general fund.

Public Safety User Fee - Foreclosure of Liens. A taxing unit/fire protection district may foreclose a lien in order to collect fees and penalties. The taxing unit/fire protection district is entitled to recover the amount of the rates or charges, penalties, and reasonable attorney's fees.

Capital Improvement Impact Fee. Under current law, a local taxing unit is permitted to impose an impact fee on new development to defray or mitigate the capital costs of infrastructure (e.g. a sanitary sewer system, a park or recreational facility, a road or bridge, a flood control facility, a water treatment plant) needed to support the new development. The taxing unit is required to prepare or substantially update a zone improvement plan outlining the infrastructure that would be needed, the estimated costs, and proposed funding streams.

This provision changes current law in two ways. First, it extends the application of the impact fee to public safety services such as fire protection services provided by a fire protection district, and police protection. The public safety facilities to be constructed would be detailed in a capital improvement plan or an updated zone improvement plan.

Second, it permits a fire protection district to adopt a resolution establishing an impact fee for new development. Before adopting the resolution, however, the board of trustees of the district must adopt a capital improvement plan for the next five years to include the projected costs for additional facilities, the sources of funds to be used, and the planning, development, construction schedule of each project.

The plan commission must notify each fire protection district of any new development or changes to new development to be constructed within the jurisdiction of the plan commission. Additionally, the fire protection's improvement plan shall be included in and considered a part of the unit's zone improvement plan. The impact fee may not include the costs of infrastructure necessitated by an annexation.

Current law permits an individual to challenge the validity of the impact fee if the taxing unit does not produce a zone improvement plan, or if the zone improvement plan is outdated. Under this bill, the validity of the impact fee in the fire protection district may be challenged for the same reasons.

Fire Department Reimbursement: After 2011, this bill requires a property insurer to reimburse the fire department for services rendered if the policy has a reimbursement clause. The fire department may charge the property owner a fee of up to \$500 if the insurer fails to reimburse the fire department.

State Agencies Affected: DLGF, DOR.

Local Agencies Affected: All Taxing Units; Fire Protection Districts.

Information Sources: Local Government Database.

Fiscal Analyst: David Lusan, 317-232-9592; Bernadette Bartlett, 317-232-9586.